



Department of the Treasury
Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Number: **202013016**
Release Date: 3/27/2020

Date: December 30, 2019

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

UIL: 501.06-00

Dear :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(6) of the Internal Revenue Code (the Code). Recently, we sent you a proposed adverse determination in response to your application. The proposed adverse determination explained the facts, law, and basis for our conclusion, and it gave you 30 days to file a protest. Because we didn't receive a protest within the required 30 days, the proposed determination is now final.

You must file federal income tax returns for the tax years listed at the top of this letter using the required form (also listed at the top of this letter) within 30 days of this letter unless you request an extension of time to file.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection (as required under Section 6110 of the Code) after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Notice 437 on how to notify us. If you agree with our deletions, you don't need to take any further action.

If you have questions about this letter, you can contact the person listed at the top of this letter. If you have questions about your federal income tax status and responsibilities, call our customer service number at 1-800-829-1040 (TTY 1-800-829-4933 for deaf or hard of hearing) or customer service for businesses at 1-800-829-4933.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:

Notice 437

Redacted Letter 4034, *Proposed Adverse Determination under IRC Section 501(a) Other Than 501(c)(3)*

Redacted Letter 4040, *Final Adverse Determination under IRC Section 501(a) Other Than 501(c)(3) - No Protest*



Department of the Treasury
Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Date: October 7, 2019

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

B = Date

C = State

D = Name

UIL:

501.06-00

Dear _____ :

We considered your application for recognition of exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a). We determined that you don't qualify for exemption under IRC Section 501(c)(6). This letter explains the reasons for our conclusion. Please keep it for your records.

Issues

Do you qualify for exemption under IRC Section 501(c)(6)? No, for the reasons stated below.

Facts

You were incorporated on B as a C nonprofit corporation. Your Articles of Incorporation state in part that your purpose is to provide an accessible forum for the exchange of information to educate and render assistance to users and potential users of D software application.

You are a membership organization. Members are employees of businesses that use D software in your geographical area. Your primary activities consist of quarterly face to face meetings where members discuss and receive training on D software from independent consultants, personnel from the manufacturer of D, and/or your members. Your members suggest the training topics and then your officers organize the trainings at various venues.

You further indicated the purpose of your meetings and trainings is to:

- Benefit your member's knowledge of D;
- Improve processes of software procedures for D software;
- Solve problems associated with D;
- Encourage ideas on how to customize to fit each member's company's needs.

Furthermore, you have periodic trainings focusing on D via a web interface.

To date, the people conducting the training have not charged for their time. However, depending on your resources they may be paid in the future. You are governed by a volunteer board of directors. Membership fees fund your operations. Your expenses are for outlays for trainings and meetings.

Finally, you indicated that information collected during meetings will be shared with D software developers to better understand the needs of users and potential users of the software application.

Law

Section 501(c)(6) of the Code provides exemption from federal income tax for business leagues not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(6)-1 defines a business league as an association having a common business interest, whose purpose is to promote the common business interest and not to engage in a regular business of a kind ordinarily carried on for profit. Its activities are directed to the improvement of business conditions of one or more lines of business rather than the performance of particular services for individual persons.

In Revenue Ruling 74-147, 1974-1 C.B. 136, an organization whose members represent diversified businesses that own, rent, or lease digital computers produced by various manufacturers and that was formed to provide a forum for the exchange of information leading to the more efficient utilization of computers by its members, and thus improving the overall efficiency of the business operations of each member, was granted exemption under Section 501(c)(6) of the Code.

Rev. Rul. 83-164, 1983-2 C.B. 95, describes an organization whose purpose is to conduct conferences for the dissemination of information concerning computers manufactured by one specific company, M. Although membership is composed of various businesses that own, rent, or lease computers made by M, membership is open to businesses that use other brands of computers. At the conferences, presentations are given by representatives of M, as well as other experts in the computer field. Problems related to the use of M's computers are also discussed and current information concerning M's products is also provided. The revenue ruling holds that by directing its activities to businesses that use computers made by one manufacturer, the organization is improving business conditions in a segment of a line of business rather than in an industry and is not exempt under Section 501(c)(6) of the Code. The revenue ruling concludes that by providing a focus on the products of one manufacturer, the organization is providing M with a competitive advantage at the expense of manufacturers other of computer brands.

In National Muffler Dealers Association v. U.S., 440 U.S. 472 (1979), the Supreme Court held that an organization whose membership consisted of the franchisees of one brand of muffler did not constitute a line of business within the meaning of Section 501(c)(6) of the Code because a single brand represented only a segment of an industry. The Court concluded that exemption under Section 501(c)(6) of the Code is not available to aid one group in competition with another within an industry.

In Guide International Corporation v. U.S., 948 F.2d 360 (7th Cir. 1991), aff. No. 89-C-2345 (N.D. Ill. 1990), the Court concluded that an association of computer users did not qualify for exemption under Section 501(c)(6) of the Code because it benefitted users of IBM equipment. The Court stated that the organization also served as an influential marketing tool for IBM because it held conferences that allowed IBM to showcase its products and services.

Application of law

You are not described in Section 501(c)(6) of the Code According to your Articles of Incorporation, your purpose is to educate and render assistance to D users and potential users through an accessible forum for the exchange of information pertaining to D. In addition, your members consist only of employees of businesses that use D. Therefore, you are not organized and operated to benefit the industry as a whole or improve the business conditions of the entire industry but to benefit the segment of a line of business under Section 501(c)(6) of the Code.

You are dissimilar to the organization described in Rev. Rul. 74-147. The organization in the revenue ruling represented diversified businesses who use computers manufactured by different companies. On the other hand, your activities are directed to employees of businesses who use D.

You are like the organization described in Rev. Rul. 83-164. Although you are promoting the common business interests of your members, you are not operating to improve conditions in one or more lines of business. For example:

- Your members are limited to employees of businesses who use D;
- Your educational activities consist of training on D software;
- You provide feedback to the manufacturer of D, concerning suggestions to improve D.

In addition, because you limit your activities to the users of D, you are helping provide a competitive advantage to the manufacturer of D, and its users/customers at the expense of the manufacturer of D's competitors and their customers that may use other brands of software. Therefore, your activities are not directed towards the improvement of business conditions in one or more lines of business within the meaning of the regulations but you are promoting and serving a "segment of a line of business" which precludes exemption under Section 501(c)(6) of the Code.

Like the organization described in National Muffler Dealers Association v. U.S., you primarily benefit one segment of an industry, rather than the industry as a whole. Although there may be incidental benefits to other software providers as a result of your activities, your primary purpose is to benefit the users of D.

In addition, you are like the organization described in Guide International Corporation v. U.S. For example, your stated purposes and activities similarly involve promoting best practices, exchanging information, educating users all relating to one product, D. Your activities primarily benefit the manufacturer of D and its users. This demonstrates you are not operating for the improvement of business conditions of one or more lines of business as required by Section 501(c)(6) of the Code, but your activities only benefit a segment of a line of business.

Your position

It is your position that the documentation and customer support provided by the manufacturer of D, is incomplete and/or difficult to obtain, leaving users to turn elsewhere to gain a complete understanding of the software and/or solve technical issues. You also state that your members reside in different U.S. states and work for companies that use or are considering using D. It is your position that this demonstrates a common business interest which does not represent one segment of an industry.

Our response to your position

You have failed to provide any additional information showing you qualify under Section 501(c)(6) of the Code. As discussed previously, your activities serve a segment of a line of business which precludes exemption under Section 501(c)(6) of the Code.

Conclusion

You do not qualify for exemption under Section 501(c)(6) of the Code. Your activities are not directed to the improvement of business conditions in one or more lines of business, but rather to a segment of a line of business.

If you agree

If you agree with our proposed adverse determination, you don't need to do anything. If we don't hear from you within 30 days, we'll issue a final adverse determination letter. That letter will provide information on your income tax filing requirements.

If you don't agree

You have a right to protest if you don't agree with our proposed adverse determination. To do so, send us a protest within 30 days of the date of this letter. You must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A statement of the facts, law, and arguments supporting your position
- A statement indicating whether you are requesting an Appeals Office conference
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization or your authorized representative
- The following declaration:

For an officer, director, trustee, or other official who is authorized to sign for the organization:

Under penalties of perjury, I declare that I have examined this request, or this modification to the request, including accompanying documents, and to the best of my knowledge and belief, the request or the modification contains all relevant facts relating to the request, and such facts are true, correct, and complete.

Your representative (attorney, certified public accountant, or other individual enrolled to practice before the IRS) must file a Form 2848, Power of Attorney and Declaration of Representative, with us if they haven't already done so. You can find more information about representation in Publication 947, Practice Before the IRS and Power of Attorney.

We'll review your protest statement and decide if you gave us a basis to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't given us a basis for reconsideration, we'll send your case to the Appeals Office and notify you. You can find more information in Publication 892, How to Appeal an IRS Decision on Tax-Exempt Status.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court later because the law requires that you use the IRC administrative process first (IRC Section 7428(b)(2)).

Where to send your protest

Send your protest, Form 2848, if applicable, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service
EO Determinations Quality Assurance
Mail Stop 6403
P.O. Box 2508
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Mail Stop 6403
Cincinnati, OH 45202

You can also fax your protest and supporting documents to the fax number listed at the top of this letter. If you fax your statement, please contact the person listed at the top of this letter to confirm that they received it.

You can get the forms and publications mentioned in this letter by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676). If you have questions, you can contact the person listed at the top of this letter.

Contacting the Taxpayer Advocate Service

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or if you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 877-777-4778.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements